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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	FCC 97-420
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. <u>96-45</u>
)	
Access Charge Reform,)	CC Docket Nos. 96-262, 94-1,
Price Cap Performance Review)	91-213, 95-72
for Local Exchange Carriers,)	
Transport Rate Structure)	
and Pricing, End User Common)	
Line Charge)	

PETITION FOR CLARIFICATION AND/OR RECONSIDERATION

National Exchange Carrier Association, Inc.
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February 12, 1998

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PETITION FOR AND CLARIFICATION AND/OR RECONSIDERATION

Pursuant to section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, the National Exchange Carrier Association, Inc. (NECA)¹ hereby submits this Petition for Clarification and/or Reconsideration of the Commission's *Order*, released December 30, 1997.² This Petition seeks clarification and/or reconsideration of the rules pertaining to the ability for eligible incumbent

¹ Under the Commission's rules, NECA is responsible for the preparation of access charge tariffs on behalf of telephone companies that do not file separate tariffs; and for the collection and distribution of access charge revenues. *See, e.g.*, 47 C.F.R. §§ 69.603 and 64.604. The Commission's actions in the above captioned dockets directly impact members of the NECA pools.

² Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, *Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72*, 63 Fed. Reg. 2099 (1988)(*Order*).

local exchange carriers (ILECs) to provide updated projections of data underlying Local Switching Support (LSS) to the administrator to include in its quarterly contribution filings.

I. THE COMMISSION SHOULD CLARIFY THAT THE ADMINISTRATOR IS PERMITTED TO ACCEPT UPDATED PROJECTED COST DATA USED IN THE CALCULATION OF UNIVERSAL SERVICE SUPPORT.

In the *Order* the Commission adopted NECA's suggestion to institute a true-up process for LSS.³ NECA had requested that a mechanism be implemented to enable the administrator to correct errors that may result from the use of projected unseparated local switching costs in calculating the LSS amounts.⁴ The true-up rules implemented by the Commission require ILECs to update their unseparated local switching revenue requirement to reflect actual historical costs for each calendar year and submit the updated data to the administrator no later than 12 months after the end of that calendar year.⁵ The administrator will use the historic cost information to calculate the true LSS due to each ILEC,⁶ and "increase or decrease a carrier's subsequent payments by the amount that the cost projection for that carrier differs from the costs which are in fact incurred."⁷

³ *Order* at ¶ 53.

⁴ *Id.*

⁵ 47 C.F.R. § 54.301(e).

⁶ 47 C.F.R. § 54.301(e)(2(iii) and (iv)).

⁷ *Order* at ¶ 54.

Although the true-up mechanism addresses the updating of historic cost information, it is less clear whether submission of interim updates of projected costs to the administrator is permitted.⁸ NECA believes the Commission rules do contemplate the use of such updates until final historical data for the prior period is available, and accordingly seeks clarification that the administrator is permitted to adjust LSS amounts to reflect updated projections of unseparated local switching revenue requirement costs supplied by ILECs.⁹

The Commission's rules direct that ILECs will supply the administrator with initial projected data no later than October 1 of each year.¹⁰ Although the rules do not expressly provide for the use of updated data, NECA believes that section 54.709(a)(3) of the Commission's rules permits the administrator to update support amounts and contribution factors in its quarterly filings to reflect more current and accurate cost projections.¹¹

⁸ See 47 C.F.R. § 54.301(e). For example, projected 1998 data used to calculate LSS amounts were included in the October 31, 1997 USAC filing. Any changes to 1998 cost data will not be made until final cost studies are completed and reported to the administrator in December 1999. Revised support amounts would not be reflected until April 1, 2000.

⁹ For example, NECA used data from forecasts developed in first quarter 1997 to project the 1998 data for the USAC October 1997 filing. Since that time, some carriers may have updated their costs. This updated information better represents 1998 costs since it should include more actual costs as the carrier will have access to more accurate records (*e.g.*, the accounting books for the calendar year will be completed), and possibly could include corrections for prior unidentified errors.

¹⁰ See 47 C.F.R. § 54.301(b). ("Each incumbent local exchange carrier that has been designated an eligible telecommunications carrier . . . shall, for each study area, provide the Administrator with the projected total unseparated dollar amount assigned to each account listed below for the calendar year following each filing. This information must be provided to the Administrator no later than October 1 of each year.")

¹¹ See 47 C.F.R. § 54.709(a)(3). ("For each quarter, the High Cost and Low Income Committee or the permanent Administrator once the permanent administrator is chosen . . . must

NECA submits that this approach is in the public interest.¹² The administrator will be able to calculate more accurate LSS amounts for eligible carriers, as well as more accurate contribution factors. Not only will this approach result in the need for less true-up amounts in April 2000, but will also lead to more accurate development of access rates.¹³

To the extent that the Commission determines that revised projections to unseparated local switching revenue requirement data is not permitted under section 54.301(b) and section 54.709(a)(3) of the Commission's rules, NECA requests reconsideration of these rule sections to permit such updates.

CONCLUSION

NECA requests that the Commission clarify that section 54.301(b) and section 54.709(a)(3) of the rules allow revised projections of unseparated local switching revenue

submit their projections of demand for the high cost and low-income programs, . . . and the basis for those projections, to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter.”)

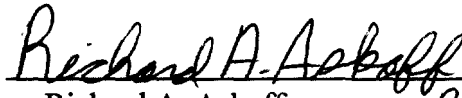
¹² A similar situation exists regarding adjustments to Long Term Support (LTS). The Commission's new rules require that 1998 LTS for each study area that participates in NECA's Common Line (CL) pool be calculated using 1997 data levels, grown by the rate of growth of the National Average Cost per Loop between 1995 and 1996. *See* 47 C.F.R. § 54.303. However, final 1997 data used to calculate 1998 LTS amounts will not be available until cost studies for 1997 are completed during calendar year 1998. *See Order* at ¶ 67. Similar to the process for revising LSS projections, NECA believes that carriers have the option to provide updated 1998 LTS amounts, based on revised 1997 projections, to the administrator to include in its quarterly contribution filing.

¹³ In accordance with 47 C.F.R. § 69.106(b), local switching rates are calculated as a residual of the revenue requirement allocated to the local switching element in Part 69 of the Commission's rules minus the amount of LSS received by the carrier. A more accurate LSS payment will lead to more accurate rate projections in the annual access tariff filing.

requirements. Such a mechanism satisfies the ongoing need to adjust future funding requirements for any changes to current funding periods. This will help to insure that the programs are neither over- nor under-funded, and will permit ILECs to recover their costs through the support programs and access rates. In the alternative, NECA requests that the Commission reconsider its rules and allow the administrator to use more current and accurate projections in its quarterly filings.

Respectfully submitted,

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February 12, 1998

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Petition for Reconsideration were served this 12th day of February 1998, by mailing copies thereof by United States Mail, first class postage paid, or hand delivery to the persons listed below.

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